

SECOND REGULAR SESSION

# HOUSE BILL NO. 1305

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BERRY (Sponsor), HOLSMAN, WYATT,  
WHITE AND McNEIL (Co-sponsors).

5149L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof one new section relating to the net metering and easy connection act.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one] **two** hundred **fifty** kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (d) Is interconnected and operates in parallel phase and synchronization with a retail  
17 electric supplier and has been approved by said retail electric supplier;

18 (e) Is intended [primarily to offset part or all] **not to exceed one hundred twenty**  
19 **percent** of the customer-generator's own electrical energy requirements;

20 (f) Meets all applicable safety, performance, interconnection, and reliability standards  
21 established by the National Electrical Code, the National Electrical Safety Code, the Institute of  
22 Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory  
23 Commission, and any local governing authorities; and

24 (g) Contains a mechanism that automatically disables the unit and interrupts the flow of  
25 electricity back onto the supplier's electricity lines in the event that service to the  
26 customer-generator is interrupted;

27 (4) "Department", the department of natural resources;

28 (5) "Net metering", using metering equipment sufficient to measure the difference  
29 between the electrical energy supplied to a customer-generator by a retail electric supplier and  
30 the electrical energy supplied by the customer-generator to the retail electric supplier over the  
31 applicable billing period;

32 (6) "Renewable energy resources", electrical energy produced from wind, solar thermal  
33 sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced  
34 by one of the above-named electrical energy sources, and other sources of energy that become  
35 available after August 28, 2007, and are certified as renewable by the department;

36 (7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation  
37 regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail  
38 electric service in this state.

39 3. A retail electric supplier shall:

40 (1) Make net metering available to customer-generators on a first-come, first-served  
41 basis until the total rated generating capacity of net metering systems equals five percent of the  
42 utility's single-hour peak load during the previous year, after which the commission for a public  
43 utility or the governing body for other electric utilities may increase the total rated generating  
44 capacity of net metering systems to an amount above five percent. However, in a given calendar  
45 year, no retail electric supplier shall be required to approve any application for interconnection  
46 if the total rated generating capacity of all applications for interconnection already approved to  
47 date by said supplier in said calendar year equals or exceeds one percent of said supplier's  
48 single-hour peak load for the previous calendar year;

49 (2) Offer to the customer-generator a tariff or contract that is identical in electrical  
50 energy rates, rate structure, and monthly charges to the contract or tariff that the customer would  
51 be assigned if the customer were not an eligible customer-generator but shall not charge the

52 customer-generator any additional standby, capacity, interconnection, or other fee or charge that  
53 would not otherwise be charged if the customer were not an eligible customer-generator; and

54 (3) Disclose annually the availability of the net metering program to each of its  
55 customers with the method and manner of disclosure being at the discretion of the supplier.

56 4. A customer-generator's facility shall be equipped with sufficient metering equipment  
57 that can measure the net amount of electrical energy produced or consumed by the  
58 customer-generator. If the customer-generator's existing meter equipment does not meet these  
59 requirements or if it is necessary for the electric supplier to install additional distribution  
60 equipment to accommodate the customer-generator's facility, the customer-generator shall  
61 reimburse the retail electric supplier for the costs to purchase and install the necessary additional  
62 equipment. At the request of the customer-generator, such costs may be initially paid for by the  
63 retail electric supplier, and any amount up to the total costs and a reasonable interest charge may  
64 be recovered from the customer-generator over the course of up to twelve billing cycles. Any  
65 subsequent meter testing, maintenance or meter equipment change necessitated by the  
66 customer-generator shall be paid for by the customer-generator.

67 5. Consistent with the provisions in this section, the net electrical energy measurement  
68 shall be calculated in the following manner:

69 (1) For a customer-generator, a retail electric supplier shall measure the net electrical  
70 energy produced or consumed during the billing period in accordance with normal metering  
71 practices for customers in the same rate class, either by employing a single, bidirectional meter  
72 that measures the amount of electrical energy produced and consumed, or by employing multiple  
73 meters that separately measure the customer-generator's consumption and production of  
74 electricity;

75 (2) If the electricity supplied by the supplier exceeds the electricity generated by the  
76 customer-generator during a billing period, the customer-generator shall be billed for the net  
77 electricity supplied by the supplier in accordance with normal practices for customers in the same  
78 rate class;

79 (3) If the electricity generated by the customer-generator exceeds the electricity supplied  
80 by the supplier during a billing period, the customer-generator shall be billed for the appropriate  
81 customer charges for that billing period in accordance with subsection 3 of this section and shall  
82 be credited an amount [at least] equal to the [avoided fuel cost] **retail value** of the excess  
83 kilowatt-hours generated during the billing period, with this credit applied to the following  
84 billing [period] **periods or once in the lifetime of the generating system, the customer-**  
85 **generator, at the customer-generator's discretion, may elect to have on an annual basis**  
86 **such excess kilowatt-hours generated credit converted to a dollar amount equal to the**  
87 **avoided fuel cost and then within forty-five days of January first of the following year have**

88 **such calculated dollar amount paid as compensation to the customer-generator. Such once**  
89 **in a lifetime election shall be made by the customer-generator at the time the application**  
90 **for interconnection is submitted to the supplier;**

91 (4) Any credits granted by this subsection shall expire without any compensation [at the  
92 earlier of either twelve months after their issuance or] when the customer-generator disconnects  
93 service or terminates the net metering relationship with the supplier;

94 (5) For any rural electric cooperative under chapter 394, or municipal utility, upon  
95 agreement of the wholesale generator supplying electric energy to the retail electric supplier, at  
96 the option of the retail electric supplier, the credit to the customer-generator may be provided by  
97 the wholesale generator.

98 6. (1) Each qualified electric energy generation unit used by a customer-generator shall  
99 meet all applicable safety, performance, interconnection, and reliability standards established by  
100 any local code authorities, the National Electrical Code, the National Electrical Safety Code, the  
101 Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed  
102 generation. No supplier shall impose any fee, charge, or other requirement not specifically  
103 authorized by this section or the rules promulgated under subsection 9 of this section unless the  
104 fee, charge, or other requirement would apply to similarly situated customers who are not  
105 customer-generators, except that a retail electric supplier may require that a customer-generator's  
106 system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located  
107 in immediate proximity to the customer-generator's metering equipment that would allow a  
108 utility worker the ability to manually and instantly disconnect the unit from the utility's electric  
109 distribution system;

110 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the  
111 standards and rules under subdivision (1) of this subsection shall not be required to install  
112 additional controls, perform or pay for additional tests or distribution equipment, or purchase  
113 additional liability insurance beyond what is required under subdivision (1) of this subsection  
114 and subsection 4 of this section;

115 (3) For customer-generator systems of greater than ten kilowatts, the commission for  
116 public utilities and the governing body for other utilities shall, by rule or equivalent formal action  
117 by each respective governing body:

118 (a) Set forth safety, performance, and reliability standards and requirements; and

119 (b) Establish the qualifications for exemption from a requirement to install additional  
120 controls, perform or pay for additional tests or distribution equipment, or purchase additional  
121 liability insurance.

122 7. (1) Applications by a customer-generator for interconnection of a qualified electric  
123 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section

to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

160 shall use an all-in-one document that includes a simple interconnection request, simple  
161 procedures, and a brief set of terms and conditions.

162         11. For any cause of action relating to any damages to property or person caused by the  
163 generation unit of a customer-generator or the interconnection thereof, the retail electric supplier  
164 shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

165         12. The estimated generating capacity of all net metering systems operating under the  
166 provisions of this section shall count towards the respective retail electric supplier's  
167 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri  
168 general assembly.

169         13. The sale of qualified electric generation units to any customer-generator shall be  
170 subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the  
171 authority to promulgate in accordance with the provisions of chapter 536 rules regarding  
172 mandatory disclosures of information by sellers of qualified electric generation units.

173 Any interested person who believes that the seller of any electric generation unit is  
174 misrepresenting the safety or performance standards of any such systems, or who believes that  
175 any electric generation unit poses a danger to any property or person, may report the same to the  
176 attorney general, who shall be authorized to investigate such claims and take any necessary and  
177 appropriate actions.

178         14. Any costs incurred under this [act] **section** by a retail electric supplier shall be  
179 recoverable in that utility's rate structure.

180         15. No consumer shall connect or operate an electric generation unit in parallel phase  
181 and synchronization with any retail electric supplier without written approval by said supplier  
182 that all of the requirements under subdivision (1) of subsection 7 of this section have been met.  
183 For a consumer who violates this provision, a supplier may immediately and without notice  
184 disconnect the electric facilities of said consumer and terminate said consumer's electric service.

185         16. The manufacturer of any electric generation unit used by a customer-generator may  
186 be held liable for any damages to property or person caused by a defect in the electric generation  
187 unit of a customer-generator.

188         17. The seller, installer, or manufacturer of any electric generation unit who knowingly  
189 misrepresents the safety aspects of an electric generation unit may be held liable for any damages  
190 to property or person caused by the electric generation unit of a customer-generator.

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